



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN TX 78716-0727

COPY MAILED

APR 18 2007

OFFICE OF PETITIONS

In re Application of :
Richard Bye. : DECISION ON PETITION
Application No. 10/780,160 :
Filed: February 17, 2004 :
Attorney Docket No. BP2961 :

This is in response to the RESUBMISSION OF NOTICE OF APPEAL filed January 10, 2007. This paper is being treated as a petition to withdraw holding of abandonment.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed July 3, 2006. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered filed and no extension of time considered obtained, the application became abandoned effective October 4, 2006. A courtesy Notice of Abandonment was mailed on January 9, 2007.

Petitioner resubmits the Notice of Appeal and states that the Notice of Appeal was previously submitted via First Class Mail and dated January 3, 2007.

Consideration of petitioner's evidence is unnecessary. Their response, including an extension of time, is present in the application with a date of receipt of January 8, 2007. The response includes an authorization to charge a three-month extension of time and is made timely by virtue of the certificate of mailing dated January 3, 2007. The three-month extension of time, required to make the response timely, was previously charged to petitioner's Deposit Account.

Accordingly, the Notice of Abandonment mailed January 9, 2007 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

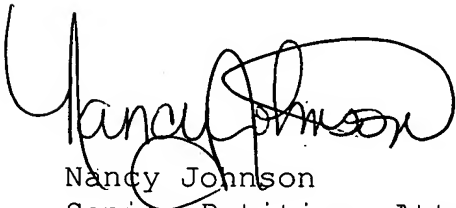
The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Please be advised that the two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the mail date of this decision.

Technology Center AU 2617 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment, to process the Notice of Appeal resubmitted on petition filed January 10, 2007, and for the examiner to await filing of applicant's Appeal Brief.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson", is written over the typed name and title.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions